REMARKS

Claims 38-57 remain in the application. Reconsideration of the application in view of the amendments and the remarks to follow is requested.

Claims 43, 44, 47-49, 51 and 53 are allowed.

Claims 38-42, 45-46, 50, 52 and 54-57 stand rejected under 35 USC §112, first paragraph, for allegedly lacking enablement. The Examiner alleges the claim recitation to the gate dielectric layer of the n-type field effect transistors **being different in composition** from the gate dielectric layer of the p-type field effect transistors is not enabled specifically referring to the phrase, "different in composition" (pg. 2 of paper no. 15). The Examiner's rationale is stated as, while the specification is enabling for a gate oxide having nitrogen atoms and another gate oxide not having nitrogen atoms, such does not provide enablement for the gate oxides being different in composition because both are still oxides (pg. 2 of paper no. 15).

The Examiner is stating that all oxides are the same composition, and therefore, an oxide with nitrogen atoms has the same composition as an oxide without nitrogen atoms. Such a contention can not be sustained. By definition, Applicant submits that an oxide with nitrogen atoms is "different in composition" than an oxide without nitrogen. The Examiner is respectfully reminded that all that is necessary to satisfy enablement is that one skilled in the art be able to practice the claimed invention given the level of knowledge and skill in the art, and the scope of enablement must only bear a "reasonable correlation" to the

scope of the claims. *In re Fisher*, 427 F.2d 833, 839, 166 USPQ 18, 24 (CCPA 1970); MPEP §2164.08 (8th Ed.).

An oxide is a compound obtained when other elements combine chemically with oxygen, for example, sodium oxide, magnesium oxide, aluminum oxide, silicon dioxide and sulphur dioxide to name only a few. One skilled in the art understands that each oxide is different in composition because of the different in kind or constituents making up the oxide. In fact, in the context of a chemical compound, composition is defined as: "the nature of a chemical compound or mixture as **regards the kind** and amounts of its constituents being usually expressed for a chemical compound in numbers of atoms of each element in the molecule or in percentages of each element by weight" *(Webster's Third New International Dictionary,* unabridged, Copyright 1976 by G. & C. Merriam Co., pg. 466, definition 1(g)) (emphasis added). Pursuant to this definition, an oxide with nitrogen atoms is clearly different in kind of its constituents to an oxide **without nitrogen atoms**, and therefore, the two oxides are **different in composition** as positively recited in the claims. One skilled in the art understands that an oxide with nitrogen atoms is different in composition than an oxide without nitrogen atoms, and therefore, the scope of enablement bears a "reasonable correlation" to the scope of the claims. The claim recitation to the gate dielectric layer of the n-type field effect transistors being different in composition from the gate dielectric layer of the p-type field effect transistors is

enabled by the originally-filed application, and therefore, the §112, first paragraph rejection is inappropriate and should be withdrawn.

Since no other rejections are presented against claims 38-42, 45-46, 50, 52 and 54-57, such claims are allowable.

Further, Applicant herewith submits a duplicate copy of the Supplemental Information Disclosure Statement and Form PTO-1449 filed in this application on May 6, 2002. No initialed copy of the PTO-1449 has been received back from the Examiner. To the extent that the submitted reference listed on the Form PTO-1449 has not already been considered, and the Form PTO-1449 has not been initialed with a copy being returned to Applicant, such examination and initialing is requested at this time, as well as return of a copy of the initialed Form PTO-1449 to the undersigned.

This application is now believed to be in immediate condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview prior to issuance of any such subsequent action.

Respectfully submitted,

Dated: 10-29-03

By: _____
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